

REMARKS

Applicants have carefully considered the matters raised by the Examiner in the Office Action dated July 15, 2003. Applicants respectfully request reconsideration of the Examiner's position based on the following remarks.

At the outset, it will be noted that Claims 15, 17, 19 and 20 are allowable while Claim 16 stands rejected. No new claims have been added herein.

Claim 16 had been rejected as being anticipated by DeMil, U.S. Patent 4,797,151. It had been the Examiner's position that this reference teaches increase in the sugar contents of grapes. Applicants respectfully disagree.

First, the DeMil reference teaches increasing the floral fertility of plants by treating the plant between floral induction and the end of inflorescence, see column 1, lines 41-45. The DeMil reference teaches that, by treating the plant during this period of time, the amount of fruit generated by the plant is increased. Specifically, with respect to grapes, the DeMil reference teaches that the number of grapes is greatly increased, see

column 2, lines 55-60. This is directly opposite the present Invention.

Increasing the output of the grapes decreases the sugar content of grapes. It is well known that, in order to increase sugar production, the number of grapes that are on the vine must be decreased. This is one of the reasons why the vines are often trimmed so as to decrease the volume of grapes produced and allow for an increase in the sugar content of the grapes that are allowed to grow.

What Applicants discovered in the present Invention is that, by treating the grapes when they are on the vine, the sugar content of the grapes can be increased. Thus, the present Invention does not deal with fertility or the increase in grape production. Rather, the present Invention is directed to increasing the sugar content of the grapes that are already on the vine. Thus, Applicants' treatment goes directly contrary to the teaching of DeMil since Applicants are teaching increasing the sugar content whereas DeMil is teaching decreasing the sugar content. As brought out in the Specification at page 2, line 22, using the copper salts of caprylic amino acids on the grapes, the sugar content of the grapes are increased. This means that

the vines are treated when the grapes are on the vine. Thus, the present Invention is clearly distinguishable from the teachings of DeMil because the present Invention is increasing sugar content whereas DeMil is decreasing sugar content and the present Invention is treating the grape crop when the grapes are on the vine whereas DeMil is treating the vines during flowering.

Furthermore, it is submitted that DeMil teaches away from the present Invention because DeMil is teaching specifically increasing fertility and production of grapes. Increasing production of grapes decreases sugar content. Thus, DeMil is teaching directly away from the present Invention. Respectfully, Claim 16 is patentable over the teachings of DeMil since DeMil neither teaches nor suggests the present Invention.

The Examiner states that the Application does not support the treating of vines when the grapes are on the vine. Applicants disagree. The Application states, at page 2, lines 20-22, that "grapes" are treated and that the grapes are treated to "increase the sugar content". Respectfully, one of skill in the art understands that to

treat a grape to increase its sugar content, the grape must be on the vine.

In view of the foregoing, it is respectfully submitted that the Application is in condition for allowance and such action is respectfully requested. A three-month Extension of Time is hereby requested and PTO Form 2038 is enclosed herewith authorizing payment of the appropriate government fee.

Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit account #02-2275.

Respectfully submitted,

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